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West News

Insurance Watchdog Petitions California Commissioner to Bar 'Outlaw' Insurer

September 6, 2006

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Ray Bourhis, the San Francisco lawyer who won multi-million dollar verdicts and settlements against UnumProvident is at it once again. Bourhis, who assisted in Eliot Spitzer's investigation resulting in Unum being fined \$15 million and ordered to reopen 115,000 denied claims and who worked with California Insurance Commissioner John Garamendi in an investigation which resulted in another \$8 million fine and another 26,000 claim re-openings, is petitioning the California Commissioner to bar the "outlaw" insurer.

"John Garamendi was right last October" Bourhis said "when he called UnumProvident an 'outlaw company.' That's exactly what they are. And Garamendi should make good on his promise to kick them out of California if they continue breaking the law."

Last October, California Commissioner John Garamendi announced the completion of a three-year CDI investigation of Unum, Bourhis said. The investigation concluded that the Company was engaged in widespread violations of state insurance regulations and in fraudulent denial practices. Those included using phony medical reports, policy misrepresentations, low-balling tactics and biased investigations as pretexts for cutting off legitimate claims of disabled, and often destitute, policyholders.

"The company was out of control," Bourhis said. "So, following a line of unanimous trial and appellate rulings by state and Federal courts, Spitzer and Garamendi fired a shot across Unum's bow, levying the largest fines in insurance regulatory history."

Garamendi ordered the company to "shape up or ship out," he said. "But what Unum did," according to Bourhis, "was to duck under the table and wait for the storm to blow over."

Bourhis cited the case of Laura Torrance-Nesbitt, a Los Angeles woman stricken with Multiple Sclerosis. Nesbitt and her company,

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which is headquartered in England, bought a disability policy from Unum. "The woman is clearly, and obviously, disabled," he says. "But Unum, through its headquarters in Chattanooga, Tennessee, looking for an excuse to cut Nesbitt off in order to save itself millions of dollars over the life of her policy, ordered Nesbitt to submit to a Los Angeles medical exam by one of its so-called 'independent' doctors. Two weeks ago, the company then cut Nesbitt off, using the medical exam as an excuse to do so. It's a complete sham," Bourhis said. "It's the same thing they did to thousands people all across the country.

In other recent cases, including *Marylynne Saccaro v. UnumProvident* and *Randall M. West, D.O. v. UnumProvident*, the Company continues to cheat its policyholders by under-paying them for disability benefits clearly owed, to save UnumProvident millions of dollars, Bourhis said.

"The truth is that no matter how much you fine them, it still pays for them to do this. In addition to situations like Nesbitt" he charged, "the company is making the disabled, destitute, policyholders whose claims it was ordered to re-open, wait -- often for years -- for their reevaluations. This is despite the fact that the law requires claims to be handled 'promptly, fairly and expeditiously.'" People with little or no money coming in, who were cheated out of their disability benefits in the first place, are simply being hung out to dry.

"Not only that, but Unum is telling these people that they have to give up their right to recover for their actual losses in order to receive the reevaluations that have been ordered. And if the Company offers a claimant even 5 or 10 percent of what it owes them, its Unum's position that its insureds can't do anything to get the rest," Bourhis added.

"The only solution," Bourhis said, "is for Commissioner Garamendi to make good on his promise to kick the Company the hell out of the largest insurance market in the world. And that's what I am calling on Garamendi to do. Period."

A copy of the letter to California Insurance Commissioner John Garamendi is available through:
http://www.insulttoinjury.org/unum_letter.htm.

Source: Ray Bourhis

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Insurance Commissioner John Garamendi
California Department of Insurance
45 Fremont Street, 23rd Floor
San Francisco, CA 94105

Re: California Settlement Agreement and Reassessment Process

Dear Commissioner Garamendi:

As you know, on October 3, 2005, you announced the results of a three year investigation against Unum Life Insurance Company of America, Provident Life and Accident Insurance Company, and The Paul Revere Life Insurance Company (hereinafter "UnumProvident"). As a result of your investigation, and following a number of unanimous verdicts and appellate rulings against the Company, holding it guilty of unlawful claims practices, you found that UnumProvident was fraudulently deceiving claimants regarding their coverage and was unlawfully refusing to pay benefits owed to its insureds.

You ordered UnumProvident to reevaluate over 26,000 previously denied or terminated claims, levied an eight million dollar fine against the Company and directed it to stop engaging in the unlawful activities set forth in the Department's findings. Calling UnumProvident "an outlaw company," you warned that if it continued to violate California law you would revoke its license to do business in this State.

I am writing at this time to ask you to proceed based on that warning. You were right. UnumProvident is an outlaw company. Furthermore, the very people who caused the problems revealed by your three year investigation, are still with UnumProvident, and the practices continue.

Just last week, UnumProvident, through its offices in London and Chattanooga, terminated disability benefits to Los Angeles resident, Laura Torrance-Nesbitt -- a woman with multiple sclerosis. UnumProvident did this the same old way. It required Laura to submit to a so called "independent medical examination", conducted, in this case, by a Los Angeles doctor. Despite the fact that she is clearly disabled, UnumProvident, following its IME, terminated Laura's benefits. Our attempts to resolve the matter in time to prevent Laura from having to pull her children out of school, and to save her from having to sell property and begin depleting her life savings, have failed. The Company is simply going to drag the matter out using delay and playing legal chess with the survival of its policyholder at stake.

In other recent claims, including the cases of Marylynne Saccaro v. UnumProvident and Randall West, D.O. v. UnumProvident, the Company also cheated its policyholders by under-paying them disability benefits that were clearly owed in order to save UnumProvident millions of dollars.

UnumProvident continues to underpay, deny and terminate legitimate claims, offering destitute, disabled people settlements amounting to only a fraction of what they are owed. By doing this, claimants are forced to choose between either accepting low-ball offers made to them or engaging in years of protracted litigation.

Several months ago, I spoke with CDI General Counsel Gary Cohen regarding a number of problems with the way UnumProvident was continuing to do business. These problems included the fact that UnumProvident was forcing the very claimants it had cheated in the

first place, to wait for months and even years for the "reassessments" you had ordered. The Company is simply refusing to discuss or negotiate these claims. This violates California insurance regulations which require that claims be handled "promptly, fairly and expeditiously". It also violates insurance laws which require insurers to negotiate in good faith claims arising under insurance policies. Given that disability claimants are often unable to work, delay in the processing of their disability claims often causes severe and irreparable hardship. In severe instances it can result in the aggravation of life threatening medical impairments, and in death. If a UnumProvident claimant should die, of course, the Company's obligations to pay benefits would cease.

UnumProvident, through its extensive in-house medical and actuarial staff is well aware of this latter point.

Beyond this, I brought to Mr. Cohen's attention that UnumProvident was requiring insureds whose claims had been denied in bad faith, and who were seeking reassessments, to give up their rights under existing California laws which permit victims of bad faith denials to recover damages for bankruptcies, evictions, foreclosures and other resulting losses.

Several days after our conversation, Mr. Cohen informed me that he had spoken with UnumProvident's Maureen Griffin and that she was going to contact me in an effort to address at least some of these matters. Since that time, I have made numerous attempts to resolve these matters with Ms. Griffin. All of these attempts have been to no avail. Several weeks ago, my office received notice from UnumProvident that Ms. Griffin was no longer handling this matter and that I should speak with UnumProvident employee, Matthew Monaghan. On three separate occasions, I attempted to schedule a telephone conference with Mr. Monaghan. This effort was also to no avail. Finally, I was told by Sean Nalty of Kelly, Herlihy & Klien in San Francisco that he had been directed, as a UnumProvident outside attorney, to take over this matter. I subsequently attempted to discuss all of this with Mr. Nalty, but that effort has also been to no avail.

I do not believe UnumProvident will ever begin to handle claims as is required to. There is simply far too much financial incentive for it to refuse to do so.

For the above reasons we respectfully request that you initiate expedited proceedings forthwith to revoke the right of UnumProvident's and its associated companies to sell insurance policies of any kind in this state. We also respectfully request that you investigate the response of Unum to your October 3, 2005 Order and take all necessary steps to enforce and/or modify that Order, to prevent further unlawful behavior by this Company, in the claims handling remaining to be completed.

Thank you for your consideration of this matter.

Sincerely yours,

RAY BOURHIS & ASSOCIATES

Ray Bourhis
Kelly Cowan

cc: Gary Cohen Esq.
General Counsel

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